

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ACTELION PHARMACEUTICALS LTD and
NIPPON SHINYAKU CO., LTD.,

Plaintiffs,

v.

ZYDUS WORLDWIDE DMCC and
ZYDUS PHARMACEUTICALS (USA) INC.,

Defendants.

**Civil Action No. 1:20-03859
(RMB) (SAK)**

CONSENT ORDER

THIS MATTER having been brought before the Court by Counsel for Defendants Zydus Worldwide DMCC and Zydus Pharmaceuticals (USA) Inc. (collectively, “Zydus” or “Defendants”) for an entry of an Order granting an extension of fact discovery for the limited purpose of completing depositions that were previously noticed under Rule 30(b)(1) and 30(b)(6) and for a modest modification of the Scheduling Order (D.I. 121) and having appeared for a telephone Discovery Dispute Conference before the Hon. Sharon A. King on November 19, 2021 with Counsel for Plaintiffs Actelion Pharmaceuticals Ltd (“Actelion”) and Nippon Shinyaku Co., Ltd. (“Nippon Shinyaku”) (collectively, “Plaintiffs”);

WHEREAS, on September 24, 2021, Zydus served Rule 30(b)(1) and 30(b)(6) deposition notices seeking depositions of each of the named inventors of U.S. Patent No. 7,205,302 (“the patent-in-suit”) and corporate designee(s) of Plaintiff Nippon Shinyaku who reside in the country of Japan, where the U.S.–Japan bilateral Consular Convention of 1963 and other U.S. and Japanese laws and regulations apply to the taking of depositions of a

Japanese witness, and the ability to participate in depositions has also been limited due to the health and safety risk associated with the COVID-19 pandemic;

WHEREAS, Plaintiff Nippon Shinyaku served its objections and responses to Zydus's Rule 30(b)(6) deposition notice on October 15, 2021;

WHEREAS, in the spirit of cooperation, and subject to and without waiver of its October 15, 2021 objections and responses to Zydus's Rule 30(b)(6) deposition notice, Plaintiff Nippon Shinyaku has been willing to provide one named inventor of the patent-in-suit as a corporate representative for a deposition to occur on a mutually agreed-upon date by the parties no later than two weeks prior to the reply expert report deadline in a manner that complies with the U.S.–Japan bilateral Consular Convention of 1963 and other applicable U.S. and Japanese laws and regulations and can protect the health and safety of the witness;

WHEREAS, with regard to Plaintiffs' Rule 30(b)(6) deposition of Zydus, in the spirit of cooperation, on October 28, 2021, Plaintiffs agreed to Zydus's request to postpone the date for Plaintiffs' deposition of Zydus until at least two weeks before Plaintiffs' rebuttal expert reports are due in order to accommodate the individual whom Zydus wishes to designate as the Rule 30(b)(6) witness (D.I. 123);

WHEREAS, the Court having considered the letter briefs and supporting documents submitted by Zydus (D.I. 121, 124, 125) and by Plaintiffs (D.I. 123), and the arguments presented and the agreements made by the parties at the discovery conference on November 19, 2021, has issued certain discovery rulings relating to Zydus's Rule 30(b)(1) and 30(b)(6) deposition notices (D.I. 126);

WHEREAS, the Court has directed the parties to meet and confer to prepare a proposed order regarding the same (D.I. 126); and

WHEREAS, the parties have consented to the following schedule; and for good cause shown;

IT IS HEREBY STIPULATED by the parties, subject to the Court's approval, as follows:

1. Subject to and without waiver of Nippon Shinyaku's October 15, 2021 objections and responses to Zydus's Rule 30(b)(6) deposition notice, Nippon Shinyaku shall designate one named inventor of the patent-in-suit as a corporate representative and the parties shall meet and confer to start the process of arranging the deposition so as to occur on a mutually agreed-upon date by the parties no later than two weeks prior to the reply expert report deadline, currently April 21, 2022, in a manner that complies with the U.S.–Japan bilateral Consular Convention of 1963 and other applicable U.S. and Japanese laws and regulations and can protect the health and safety of the witness;

2. Zydus's reply expert report(s) may include information from the deposition of the inventor pursuant to Paragraph 1 above;

3. Zydus may make an application to the Court for leave to include information from the deposition of the inventor pursuant to Paragraph 1 in Zydus's opening expert report(s) if Zydus believes that it is warranted, and Plaintiffs shall be provided with an opportunity to oppose any such request for relief; and

4. Subject to the above, this Order does not impact any other dates in this Court's scheduling order.

STIPULATED AND AGREED TO BY:

/s/ Keith J. Miller

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IT IS SO ORDERED, this 15th day of December, 2021

Sharon A. King
The Honorable Sharon A. King
United States Magistrate Judge